

# SENATE RECORD VOTE ANALYSIS

104th Congress

1st Session

Vote No. 164

May 11, 1995, 7:05 p.m.

Page S-6505 Temp. Record

## INTERSTATE WASTE TRANSPORTATION/Flow Control for Certain Districts

**SUBJECT:** Interstate Transportation of Municipal Solid Waste Act of 1995 . . . S. 534. Chafee motion to table the Jeffords/Leahy modified amendment No. 867.

### ACTION: MOTION TO TABLE FAILED, 46-51

**SYNOPSIS:** As reported, S. 534, the Interstate Transportation of Municipal Solid Waste Act of 1995, will allow States to place limits on the import of out-of-State municipal solid waste, will provide limited authority to States and municipalities to specify the disposal site for municipal solid waste in their districts (flow control), and will reinstate the groundwater monitoring exemption for small municipal landfills (that exemption was reversed as a result of a Sierra Club lawsuit).

**The Jeffords/Leahy modified amendment** would permit flow control for municipal solid waste and recyclable materials in a solid waste management district that is under a requirement to reduce solid waste by 30 percent by 2005, if the district:

- uses all revenues gained from flow control to manage municipal solid waste;
- is responsible by State law to manage solid wastes in its jurisdiction;
- is authorized by a State law enacted before January 1, 1990 to exercise flow control authority;
- is required by a State law enacted before January 1, 1992 to develop a solid waste management plan consistent with a State plan; and
- has a solid waste management plan that was approved before September 15, 1994.

The intent and result of the Jeffords/Leahy amendment would be to extend existing flow control authority in Vermont without affecting the rest of the country.

Debate was limited by unanimous consent. Following debate, Senator Chafee moved to table the Jeffords/Leahy modified amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

NOTE: Following the failure of the motion to table, the Jeffords amendment was adopted by voice vote.

(See other side)

YEAS (46)			NAYS (51)			NOT VOTING (3)	
Republicans (37 or 73%)		Democrats (9 or 20%)	Republicans (14 or 27%)		Democrats (37 or 80%)	Republicans (3)	Democrats (0)
Ashcroft	Helms	Baucus	Abraham	Akaka	Hollings	D'Amato- <sup>2</sup>	
Bennett	Hutchison	Bradley	Campbell	Biden	Inouye	Dole- <sup>2</sup>	
Bond	Inhofe	Breaux	Cochran	Bingaman	Kennedy	Warner- <sup>2</sup>	
Brown	Kassebaum	Dodd	Cohen	Boxer	Kerrey		
Burns	Kempthorne	Johnston	DeWine	Bryan	Kerry		
Chafee	Kyl	Lautenberg	Gorton	Bumpers	Kohl		
Coats	Lott	Lieberman	Jeffords	Byrd	Leahy		
Coverdell	Lugar	Moynihan	Mack	Conrad	Levin		
Craig	McCain	Pell	Murkowski	Daschle	Mikulski		
Domenici	McConnell		Roth	Dorgan	Moseley-Braun		
Faircloth	Nickles		Simpson	Exon	Murray		
Frist	Packwood		Snowe	Feingold	Nunn		
Gramm	Pressler		Specter	Feinstein	Pryor		
Grams	Santorum		Stevens	Ford	Reid		
Grassley	Shelby			Glenn	Robb		
Gregg	Smith			Graham	Rockefeller		
Hatch	Thomas			Harkin	Sarbanes		
Hatfield	Thompson			Heflin	Simon		
	Thurmond				Wellstone		

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

**Those favoring** the motion to table contended:

Last year, the Supreme Court ruled in its *Carbone* decision that it is an unconstitutional interference with commerce for a State or local government to limit, without Federal approval, the delivery of municipal solid waste to one specific point. Such interference is called flow control. As a matter of principle, we see no justification for allowing monopolistic control over waste. A company that disposes of such waste should be able to decide the disposal site that is in its best interest to use, as long as that site is in compliance with applicable State and Federal disposal laws. Typically, when a company is subject to flow control, it finds that disposal costs rise by 40 percent. According to a March, 1995 report from the Office of Solid Waste at the Environmental Protection Agency (EPA), no evidence exists that this increased cost is in any way necessary to increase either landfill capacity or the recycling of trash. In other words, areas without flow control have as great a success rate as areas with flow control, and at less cost. Our colleagues apparently have concluded that Vermont cannot have a successful recycling program without flow control. We believe their case is weak. Agreeing to this amendment, therefore, even though it affects only one State, would indicate that the Senate does not intend to adhere to the principle that flow control should not be allowed. The result would be a deluge of amendments asking for exceptions from this bill. We oppose the Jeffords/Leahy amendment, and we do not want to encourage further amendments. For these reasons, we support the motion to table.

**Those opposing** the motion to table contended:

Vermont has unique circumstances that make this amendment justified. It is the most rural State in the country--its largest town has only 39,000 people. It is also a State of pristine beauty that is largely dependent on tourism and whose residents share a deep commitment to protecting the environment. These facts led the Vermont legislature to develop a plan for reducing municipal solid waste by recycling up to 30 percent of the amount generated. The Vermont system works, and works well. Under its system, small towns are permitted, but not required, to band together in solid waste districts. The districts that have formed under this authority typically have around 10 towns. Each district has the authority to designate the landfill or recycling center to which municipal waste within its boundaries must go (Vermont does not have any incinerators). Each district is also permitted to charge a tipping fee, or surcharge, on solid waste to cover recycling costs. To preserve competition, and thus keep down prices, private trash haulers still compete for customers, and landfill operators compete for contracts to become designated facilities for districts' municipal trash. Small towns in Vermont cannot economically recycle trash on their own; they must band together for it to be feasible. Further, they do not have to band together; they have done so voluntarily, and they have done so under State rules that keep prices down with free market principles. This issue is purely an issue for Vermont. Other States are not affected. The Federal Government should not interfere in an issue that affects only one State against the wishes of the citizens of that State. We therefore oppose the motion to table the Jeffords/Leahy amendment.